87-278

Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
CLERK

In The
Supreme Court of the United States

October Term, 1987

THEODORE RAYNOVICH,

Petitioner,

v.

ERNEST GREGG Jr.,
JOHN G. BRASKEY, and
ELWOOD L. GROVES III

Respondents.

Board of County Commissioners

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

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QUESTIONS PRESENTED

IS A CITIZEN OF THE STATE OF MARYLAND DENIED DUE PROCESS AND EQUAL PROTECTION OF THE LAWS AS GUARANTEED BY THE 5TH AND 14TH AMENDMENTS TO THE U.S. CONSTITUTION, WHEN:

I

THE COURTS OF MARYLAND, TRIAL AND APPELLATES BY THEIR FINAL JUDGMENTS AND OPINIONS RENDERED, PERMIT THE COUNTY COMMISSIONERS OF GARRETT COUNTY TO TAKE PRIVATE PROPERTY WITHOUT DUE PROCESS?

II

WHEN JUDGMENTS AND OPINIONS MARYLAND APPELLATE COURTS UPHOLD UNCONSTITUTIONAL ACTS OF CIRCUIT COURT VERDICT?

III

WHEN THE MARYLAND COURT OF APPEALS REFUSED CONSIDER PETITIONER'S PLEA OF CONSTITUIONAL RIGHTS VIOLATIONS UNDER PROVISIONS OF U.S. AND MARYLAND CONSTITUTIONS WHICH ARE FULLY SET FORTH IN THIS PETITION?

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1987

No._____

Theodore Raynovich

Petitioner

v.

Ernest Gregg Jr. et al.,

Respondents

PETITION FOR WRIT OF CERTIORARI

TO THE COURT OF APPEALS OF MARYLAND

PARTIES

ALL PARTIES ARE NAMED IN THE CAPTION

DECISIONS BELOW

The judgment of the Circuit Court for Garrett County, Maryland, was totally biased, and ignored petitioners' complaints

of unconstitutional taking of private land but actually used the trial to take more private property. Trial No. 472-C, Oct. 1, 1986, request for New Trial denied Oct. 10 1986, Remarks from the Bench, issued Oct. 10, 1986 A10:11, Appendix A at 1a. Notice of Appeal filed Oct. 28, 1986 to The Court of Special Appeals of Maryland, case No. 1231, Constitutional provisions ignored, trial Court's decisions affirmed, Filed March 26, 1987 Appendix B at 5a. On April 29, 1987 petitioned Court of Appeals of Maryland for writ of certiorari, denied on July 1, 1987 Appendix C at 12 a.

BASIS FOR INVOKING JURISDICTION

This Petition for Certiorari is timely due to it being filed within 90 days after Court of Appeals denied certiorari July 1, 1987: 28 USC Section 2101(c), Rule 20 U.S. Supreme Court Rules.

This Court has jurisdiction to review the opinion of the Court of Appeals of Maryland on Writ of Certiorari, for the violations of Constitutional Rights which are guaranteed to the petitioner under the fifth and fourteenth Amendments to the Constitution of the United States, pursuant to 28 U.S.C. Section 1257 (3) and U. S. Supreme Court Rule 17, 1(b),(c) and pursuant to the said U. S. Constitutional Amendments themselves.

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the taking of private property for public use in violation of the following constitutional provisions:

No person shall be deprived of life, liberty, or property, without due process of law. Amendment 5 U.S. Constitution.

Nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. Amendment 14 United States Constitution.

The General Assembly shall enact no law authorizing private property to be taken for public use without just compesation, to be agreed upon between the parties or awarded by jury, being first paid or tendered to the party entitled to such compensation, except that where such property in the judgment of the state roads commission is needed by the State for highway purposes, the General Assembly may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof by said State Roads Commission, or into Court, such amount as said State Roads Commission shall estimate to be of fair value of said property, provided such legislation also requires the payment of any further sum that may subsequently be awarded by a jury. Article III. Legislative Department. Section 40-B.

CONSTITUTIONAL PROVISIONS INVOLVED
continued

Constitution, Laws and Treaties of United States to be supreme law of State. The Constitution of the United States, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be Supreme Law of the State; and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding. CONSTITUTION OF MARYLAND--DECLARATION OF RIGHTS. Article 2.

U.S. Constitution Title 42 Section 1985:

APPENDIX S at 36 a 1985

U.S. Constitution Title 42 Section 1983:

APPENDIX T at 37 a 1983

STATEMENT OF THE CASE

1. Basis for Federal Jurisdiction.

The jurisdiction of this Court is being invoked because of the violations of petitioner's constitutional property rights by Respondents, and by said Circuit Court and Appellate Courts of Maryland, as are guaranteed to petioner by due process, and equal protection of the laws clause in the 5th and 14th Amendments to the Constitution of the United States, because petitioner has been denied compensation for the taking of his private property in violation of Maryland, and U.S. Constitutions, as fully set forth in this petition to this Court, were raised and argued by petitioner in Trial Court and Court of Special Appeals of Maryland, and in request for New Trial, all to no avail.

2. Facts and procedural history:

Petitioner bought 20 acres in fee Sept. 8, 1953, from Walter Dawson, a highly respected and prominent Attorney, on said property is a private roadway, clearly described in Deed Filed and recorded Sept. 9, 1953 in Liber R.L.D. No. 179, folio 304. one of the Land Records of Garrett County. Appendix D at 13a. About the summer, 1961, while petitioner was out of the State, The Conspirators had the County Roads Departm-ent build a black-top Road over petitione-rs property without permission, or due process. Petitioner vigorously protested this unconstitutional conduct, pleading repeatedly with Respondents, that they do this road legal, and extend it about 400' so Gindlesbergers would get something for their taxes other than snow being pushed into their roadway by County Snowplows as

as they clean out for the politicaly powerful co-conspirators. At these many unproductive meetings petitioner offered free of charge any property owned if respondents would make this a fair and Legal road. In frustration after years of wasted time, petitioner got an Attorney to correspond with respondents on this matter, after a period of time the problem seemed to have a fair and just solution. Appendix E at 20 a. The conspirators, fearing that justice may be served, 4½ months later on July 12, 1984 they made Stover write another letter, misquoting laws out of context inventing New Laws, in his forced situation, trying to prove that the County can take private property, to accommodate the Power Brokers, Without interference of due process, or Constitutional Laws. Appendix F at 21a in this letter of July 12, 1984,

Mr. Stover referred to a Board meeting of Dec. 14, 1960, Appendix G at 23a, 24a, 25a and 26a."A motion by Mr. Schell was offered, that the road leading off of the Glendale Road, known as the Guthrie Luke Road be taken into the county system. Mr. Glotfelty seconded the motion and Mr. Garletts concurred." This method of taking Private Property violates U. S. Constitution, and the Maryland Constitution, Anno. Code of Maryland, Art. 25 Sections 135--140 Appendix H at 27a, and 28a. This Art. 25 is self explanatory the only possible way that any official could do wrong with these Rules is by malicious conspiracy. Appendix I at 29a Section 12-207 LAND ACQUISITION POLICIES. Is also very clear that "taking private property" is more than a motion in conspiracy. All these Laws, Rules, Articles, Statutes, stress equal protection under the law, no "PERSCRIPTION" for any Public Agencies.

Stover's letter of July 12, 1984, states: "The Garrett County Roads Department has been collecting revenue on this road from the State of Maryland, I am of the opinion the Board of County Commissioners may have acquired the right to use the road by reason of prescription for a period of more than twenty years." Facts; revenues were a "mistake" petitioner pays taxes on this property, Stover knows there is no such thing as "PRESCRIPTION" by any Public Agency, that they may bypass due process. In the instant case even adjoining prop. owners could never claim the private roadway by prescription due to having deeded access. This private "cul de sac" road is only to be used by adjoining property owners and their deeds all correspond exactly with my deed, No reason for public to use this road and the county being part of the general public have no legal reason or right to use this private roadway.

There is no reason for the General Public to use this road, never was, the public never did, and they don't use it now, only on rare occasion, does a stranger wander in and then must turn around in some ones driveway. The County Road Sign makes it clear "NO OUTLET" APPENDIX J at 30a
At Trial Court, it was decided by Judge Thayer, a licensed Real Estate Broker, who works with millions of Dollars worth of property, that the private road which is clearly described in Appendix D at 20a as a private roadway, leading from the Glendale County Road to the easterly margin of the land owned by Lelia E. Dawson, this property is now owned by Mr. George Stuck with a deeded access, and no right to conspire with others to use tax money to take private property, in unconstitutional mis-

conduct, the Court, entertained, and made an effort to work on the Raynovich property east of Stuck property, which was not the subject of the case at bar. Petitioner feels that Judge Thayer, being a real estate Broker, and the case at bar involving real estate, would be a conflict of interest, and should have reclused himself from the case months before this biased trial. In remarks from the Bench, Appendix A at 1a "To begin with, Mr. Raynovich, under the circumstances of this case and nearly every other civil case, legal expenses in preparing a claim are not recoverable. That is up to the parties to pay. That may be a defect in our system, but that is the system." Facts; 42 U.S.C. Sections 1983 and 1988. GAGNE v. MAHER 455 F. Supp. 1344. (1978) Gagne was awarded damages

and Legal Costs also. In Maryland, DeBLEE-KER v. MONTGOMERY COUNTY, MD.,438 A. 2d 1348 (1982) DeBleeker awarded damages and Legal costs also. Without the Legal costs being recoverable, the corrupt officials could have a free rein in conspiracies to take private property, for a victim to go to the Courts, even if he prevailed, he would have a hollow victory, costs of prosecuting often are more than the award.

Remarks: "The road was taken into the system in 1960, and whether or not the right-of-way agreements were recorded is a matter that is not before me.I assume perhaps that was not done." Fact: Everyone in the Court knew there was no right-of-way agreement from owner/petitioner to be recorded. Nonetheless, private property was taken at the meeting of Dec. 14, 1960 by a motion. Conspirators do not use due process. These minutes of this meeting were kept at the

garage, and never saw daylight till Aug. 1984 after much persistence over the weeks petitioner got a copy. Appendix G at 23a--26a. "The property owners who live along that road, including Mr. Raynovich, benefit from the county maintenance whether they asked for it or not." Facts: petitioner did not like the benefit of Constitutional violations, Gindlesbergers did not like the benefit of snow piled in their roadway by county plows, for our taxes. " It is likewise clear and I so find that the property of Mr. Raynovich east of the Stuck property was not the subject of a petition nor a right-of-way for a county road in the system, and as such, it is not county road though it is a public thoroughfare from the eastern boundary of the Stuck property to the Beckman County Road." Facts: It seems by this remark, that if the conspirators wanted any other property owned by petitioner, all that was needed, is for

conspirators to say that they had signed a petition for it, and the county would take it for them also. The co-conspirators, not interested in petitioners driveway beyond their property chose not to commit perjury for the second time, and were as shocked as petitioner, when the Judge tried to create a thoroughfare. Appendix D at 17 a: (petitioners deed 1953) "This deed is subject to the right of property owners abutting on the private roadway leading from the Glendale County road to the easterly margin of the land owned by Lelia E. Dawson et al., to use the same as a means of access to and from their resective properties, and it is understood and agreed that said private roadway shall remain open for the use of all said abutting property owners."

(Lelia E. Dawson property now owned by George Stuck)

Appendix O at 35a is a copy of County deed for right-of-way agreement made 1960, that shows they did obey the law, except when it came to conspiracy, there are several hundred deeds like this in the court records, having to do with right-of-ways and roads, Appendix S at 39a Beckman's Deed 1932 shows the 952' wire fence line, the same 952' wire fence line that is in petitioners deed Appendix D at 16a, Appendix M at 33a Marynowski's Deed 1960, shows a ten foot right-of-way was granted to petitioner, that ten foot right-of-way was for Alva Lewis property Appendix N at 34a this property is now Merle Gindlesberger's and his Deed shows the 10' right-of-way that is for his exclusive use on Appendix L at32a 1962. If there was a public road of any kind petitioner would not have had to negotiate with Mr. Marynowski for the 10' right-of-way, without it, the lot could not have

Appendix A at 3a "The county, however, does have the right, as a member of the public, to use that road from the Stuck property onwards to the Beckman County Road, but not to maintain it. It must be a county road to be subject of county maintenance. It does, however, have the right, as a member of the general public and as any other member of the general public would have, to use that road."

Facts: There is no such public or otherwise road to the Beckman County Road as the entire Court knew, and Judge Thayer, being a devoted supporter of the Blue Barn Playhouse, very well knew there was no road, from the Barn to petitioners property as all the Appendices, of Deeds, and statements so clearly show. If therewas any kind of road the Judge could have used it at times, to and from the Barn, petitioner also would have used it, it would have been a five

minute walk instead of a 20 minute plus drive. Appendix A at bottom of 3a and top of 4a. "It was so petitioned and it was so accepted. Mr. Raynovich was not included in that petition and I gather the county has no right-of-way; nonetheless,"
Facts: There never was a petition, there is no petition to accept, there was no petition to include Mr. Raynovich, or any one else. The Court acknowledges that the county has no right-of-way, nonetheless the conspirators took the property.
This is in violation of Title 42 Section 1985 Appendix P at 36a, and Section 1983 Appendix Q at 37a. These Constitutional violations of rights, are also adverse to Annotated Code of Maryland, Real Property Article 25 Sections 135--140, Appendix H at 27a, Appendix R at 38a Mr. Kight, former owner of adjacent property, we shared a common boundary of 952' of wire fence line again verifies there was no public road.

And Appendix J at 30a is a picture of the County Roads Department's sign "NO OUTLET" once again proves that this cul de sac private road could never be described as a "THOROUGHFARE". Appendix T at 40a, Dec. 20 1960 County Commissioners meeting, minutes show that Mr. Friend, Mr. Bishoff and Mr. Schossnagle had to pay to plow their roads but conspirators get service at taxpayers expense, and Glen Cove Road is a private road, the same as theirs. Appendix V at 42a are excerpts from BUREAU OF MINES v. GEORGE'S CREEK 272 Md. 143, Page 101 of Court Transcript (1973). The Judges own words that as a State's Attorney, he's into real estate, a licensed broker, and bank director. To an unlearned layman, it looks like a conflict of interest for this Judge to sit on a Real Estate question.

Appendix W at 43a Shows Judge Thayer's financial statement that is filed annually at Annapolis, making it public record. Any

Judge dealing in millions of dollars in real estate should not sit on a real estate questions. Appendix B at 7a "A road, formerly known as John Luke Road and now known as Glen Cove Road, traverses that tract, extending from Glendale County Road in the west to Beckman County Road in east." Facts: I own this road and property on both sides of this road, since 1953, the previous owner, from whom I purchased this property from referred to it as Glen Cove since it was a cove near the Glendale Road, petitioner accepted that and has called it such since 1953, one of the co-conspirators, bought a lot, and then started calling it John Luke Road on the various permits for services, when petitioner learned of this, he went to the County Office and had it changed back to Glen Cove Road, this co-conspirator, still lists his address in the phone book as Johnny Luke Road, John Luke never owned this property.

This road never traversed that tract, and does not traverse it now, these statements can best be described in layman words, in courts they are malicious errors. In the history of the world, this road never went from the Glendale Road to The Beckman County Road. Who ever says so intentionally misrepresents the facts.

"retaining a parcel of property to the east of a lot now owned by George F. Stuck." Fact: petitioner owns much property West of the lot now owned by George F. Stuck. This is another misleading intentional error. "Stuck and other owners of property along Glen Cove Road west of appellant's parcel petitioned the county to accept Glen Cove Road into the county road system." Facts: There was no such petition Power Brokers never use petitions, they do it by phone, petition procedure is clearly explained in Annotated Code of Maryland Article 25 Section 136. Appendix H at 27a.

last of 7a and top 8a

"but upon learning of the construction he directed his wife to prevent the county from paving beyond the beginning of his western property line." FACTS: The paving started from Glendale County Road, when petitioner learned of this the paving was 100 feet past George F. Stuck property. And petitioner directed his wife to stop the county in its tracks and toget off the property. Petitioner's Western property line goes several hundred feet to the WEST of George F. Stuck's property. These are malicious mistaken errors.

"The county complied and paved only that portion of Glen Cove Road which extends from Glendale County Road in the west to property line appellant shares with Stuck." Facts: The county had nothing to comply with, they started from the Glendale County Road and went 100 feet past George F. Stuck's property where they were stopped.

The only thing respondents have complied with is request of power brokers in conspiracy to violate Constitutional Laws, its high time the "County" started to comply with the laws of the land instead of the power brokers, using taxes for wrongful purposes, then using more taxes tosubdue the victims of these violations. "since it maintains only the western portion of the road, its snow removal efforts frequently have resulted in blocking off the unpaved portion of the road from the paved portion. As one may expect, that has led to a considerable degree of friction between appellant and the County" Mistaken again, Facts are: The county does not maintain only the western portion of the road, from George F. Stuck's eastern boundary they go about 150 feet then make a left turn about 75 degree turn to go another 100 feet to clean snow for Mr. Robert G. Stuck, son of George F. Stuck, in so doing the

snow gets piled into the driveway Gindlesbergers use to get in and out, they, the Gindlesbergers have to shovel this piled snow, not petitioner as The Court of Special Appeals erroneously stated again. The county goes several hundred feet beyond this imaginary line of George F. Stuck's eastern line. They do as they please the Laws of the Land notwithstanding. Appendix X at 44a Shows these remarks are in error and the county trucks do not comply with this letter by Groves of February 25, 1985 they still plow the sme damaging way. "Appellant also sought compensatory damages of $90,000." Fact: Petitioner lost more than that amount in property sale loss due to respondents unconstitutional acts and Maryland Appellate Court's approval of the violations by ignoring them and protecting the wrongdoers, as is evident by all the erroneous statements. "Unfortunately for him, appellant acted as his own couns-

el before the circuit court and, being unfamiliar with court procedure, failed to adduce any evidence to support his claim of ownership beyond his own testimony," Facts: Unfortunate it was, not only for me but for the whole country that these kind of unconstitutional trials can be held and Appellate Courts of Maryland don't mind, For in the four pages of this UNREPORTED Per Curiam decision, Not one word of the State laws, State Constitution, nor the United States Constitution, all of which were violated, and I specifically Stated and cited them, all petitioner got from the unreported decision was: we are all equal and some are more equal and a guy with a name of Raynovich isn't going to mess up our good old boys ball game. Petitioner was only asking the Appellate Court to act on the Constitutionality of what took place---not one word, but a lot of mistaken errors.

"The petition itself was not produced, but there was evidence to the effect that the county accepted the dedication."

Facts: There is no doubt of the dedication and devotion to the power brokers. A non existing, never existed petition can not be produced, the surprise witnesses, who perjured themselves, if for the sake of argument there was a petition for that road, how easy to prove it: Art. 25 Section 136- if it was then this could prove it. But Appedix K at 31a Gindlesberger's Affidavit contradicts perjured statements, the effect that the county accepted the dedication, the conspirators should have read Section 12-207. The last line: No public agency may make it necessary for an owner to institute legal proceeding to prove the fact of the taking of his land.

" The court went further, however, and found that the county had acquired through prescription the right to utilize the ent-

ire length of Glen Cove Road as well." Facts The "county" has been trespassing over its entire length, there is no more what the Court tried to create as a thoroughfare, there is no such thing its a cul de sac private road as shown by ancient deed which the trial Judge forbid its presentation, according to the F.R.C.P. ancient, court documents, are admissible and conclusive, that is allpetitioners case was based upon, but, when the Judge does not allow, one bit of evidence, then no one can adduce anything, so like any victim of violence, you are best to not resist, but stay still till its over, but the court allowed Stover to present a small plat, that was irrelevant, not submitted before the trial, there was no need to object it was their show and no laws or constitutions would change their dedication to the good old boys. That prescription like the petition, there is no such thing

that any public agency can take property by prescription, to see this being used by an Appellate Court, in order to deny a citizen of Constitutional Guarantees of equal protection under the law, this in the year of The Constitution's Bicentennial ! Is enough to make one cry.

ARGUMENT

1. Introduction

"Equal Justice under the Law" It is hard to believe what has happened in this case. The petitioner, property owner, has no where now to turn, but to this Court. There is not a single decision of any Court in any jurisdiction in these United States that has ever permitted, directly or indirectly, or for any reason whatsoever, the taking of private property for public use without just compensation, that is until now in this proceeding. It seems to petitioner an uncalled for thing to have to argue to this Court the elementary and undisputed principles of law that govern and control this litigation, and upholds the contentions of this petitioner now presented to this Court.

2. Reasons for granting certiorari.

The Circuit Court's Judgment, was all

Illegal and contrary to law in all respect. Due process of law, and Equal Protection under the laws, do not support such proceedure, and when the Court of Appeals of Maryland refused to even consider the Constitutional pleading of petitioner, that is the ultimate denial of due process, and equal protection of the laws per se. It not only implies the right of each to resort to the Courts on the same terms with others for the security of his person and property, the prevention and redress of wrong, and the enforcement of contracts, but also his exemption from any greater burdens as are usually imposed upon all others under like circumstances.

No. 85-1199

FIRST ENGLISH EVANGELICAL LUTHERN CHURCH OF CLENDALE, APPELLANTS v. COUNTY OF LOS ANGELES, CALIFORNIA. Decide June 9, 1987. "Government action that even temporarily denies landowner all use of land so as to

be considered "taking" of property within meaning of Fifth Amendment's Just Compensation Clause requires government to pay landowner value of use for period during which use is denied, even though such requirement lessens government's freedom and flexibility when enacting land-use regulations; case is remanded for determination of whether county ordinance that was enacted to preserve public health and safety and that denied to landowners right to construct or enlarge structures on land located within flood protection area effected "taking" compensable under Just Compensation Clause."

RUSSIAN VOLUNTEER FLEET, Petitioner, v. UNITED STATES. (282 U.S. 481-492)

[No.39.]

Argued December 12, 1930. Decided February 24, 1931. Under The Constitution of The United States, even foriegn citizens are protected, in spite of the fact that we cannot get the same protection in their country, in this case, under the 5th Amendment, money, and ships are returned, that were seized at the time of the Russian revolution. In the instant case, the respondents are denying petitioner this Constitutional Right, that which even a communist government may avail itself of the protection of The Constitution of The United States of America.

Petitioner further prays that this Court would look upon this petition on its merit and not on the technical and grammatical errors, for petitioner was forced into the pro se situation. In petitioner's working

years, was a weder, and a good one. Now petitioner refers to Appendix U at 41a.

CONCLUSION

Petitioner maintains that there can be no due process or equal protection of the laws in any given case, unless and until the Constitutional Rights of the litigant are upheld, and that the Constitution itself vests the jurisdiction in all Courts to uphold ititts provisions. Every Judge of every Court, takes an oath to uphold the Constitution without any restriction or reservations. That has not been done in the case at bar.

This Court should issue its Writ of Certiorari to the Court of Appeals of Maryland, and should reverse that Court's decision.

Respectfully submitted,

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APPENDIX A

No.472 Civil In the Circuit Court for Garrett County, Maryland. Trial Oct. 1, 1986 Denial of New Trial, and issuance of these Remarks from the Bench, Oct. 10, 1986.

THE COURT: Mr. Stover, you are correct that there is no evidence of any damage before me. To begin with, Mr. Raynovich, under the circumstances of this case and nearly every other civil case, legal expeses in preparing a claim are not recoverable. That is up to the parties to pay. That may be a defect in our system, but that is the system. If there were a trespass, I could assign nominal damages, but for reasons which will become clear in a moment, I am not going to do that. As I have said and I now find specifically that the Glen Cove Road is, indeed, a public thoroughfare, it qualifies as such. It is clear that the county was petitioned by property owners along the Glen Cove Road with the excepti-

on of Mr. Raynovich and perhaps some others, to accept the road into the county system at least as far east as the boundary of the George Stuck property. The road was taken into the system in 1960, and whether or notthe right-of-way agreements were recorded is a matter that is not before me. I assume perhaps that was not done. I have some knowledge that there are rights-of-way outstanding which the county acquired and did not record. Nonetheless, the road was taken into the county system and has been maintained as a county road, at least as far east as the Stuck property, for a period of 26 years. The property owners who live along that road, including Mr. Raynovich, benefit from the county maintenance whether they asked for it or not. It is likewise clear and I so find that the property of Mr. Raynovich east of the Stuck property was not the subject of a petition nor a right-of-way for a county road in

the system, and as such, it is not county road though it is a public thoroughfare from the eastern boundary of the Stuck property to the Beckman County Road. Mr. Stover tells me that the county does not maintain a claim to that portion of the Glen Cove Road as a county road. The county, however, does have the right, as a member of the public, to use that road from the Stuck property onwards to the Beckman County Road, but not to maintain it. It must be a county road to be subject of county maintenance. It does, however, have the right, as a member of the general public and as any other member of the general public would have, to use that road. As to the property between the western terminus of the Glen Cove Road and extending eastward to the eastern Stuck boundary, I find that that road is in the county system and qualifies as a county road. It was so pet-

itioned and it was so accepted. Mr. Raynovich was not included in that petition and I gather the county has no right-of-way, nonetheless, Mr. Raynovich has for a period of in excess of 20 years accepted the county maintenance and use and the benefi ts from the county for the county accepta nce of that into the system, and it is now too late to complain on that section of the road. I will, if it is appropriate, entertain and restrain the county from any further maintainance on the Glen Cove Road eastward from the Stuck boundary. Mrs. Selby, I'll ask you to transcribe these remarks and I'll sign them and enter them into the record as the court's findings.

Fred A. Thayer, Chief Judge

October 1, 1986

True Copy

Test Clifford C. DeWitt Clerk

APPENDIX B

unreported

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1231

September Term. 1986

THEODORE RAYNOVICH

v.

ERNEST GREGG, JR. ET AL.

Wilner,

Bloom,

Bell, Robert M.,

JJ.

Per Curiam

Filed: March 26, 1987

Theodore Raynovich appeals the judgment of the Circuit Court for Garrett County denying his request that appellees, the Board of County Commissioners of Garrett County and Commissioners Ernest Gregg, Jr., John Braskey and Edward Groves, III,

be enjoined from trespassing upon a certain road that Raynovich claims to own. The court determined that the road in question is part of the county road system and, therefore, denied the injunction. The court's determination not being clearly erroneous, we shall affirm. At the outset we note that appellees have filed a motion to dismiss this appeal on the basis that the form and contents of appellant's brief fail to comply with the strictures of Rule 1031. We are sorely tempted to grant that motion because the brief is one of the worst ever filed with this Court. We recognize, however, that the brief is the product of a pro se appellant and, despite its inadequacies, we are able to discern from that brief the issue on appeal and enough facts to decide that issue. We choose, therefore, to exercise our discretion to deny appellee's motion. Rule 1035. In 1953, appellant purchased a tract of land located on

the north side of Deep Creek Lake and adjoining Garrett County Route No. 22, known as Glendale County Road. A road, formerly known as John Luke Road and now known as Glen Cove Road, traverses that tract, extending from Glendale County Road in the west to Beckman County Road in the east. Between 1953 and1954, appellant sold a number of lots along Glen Cove Road to various individuals, retaining a parcel of property to the east of a lot now owned by George F. Stuck. In 1960, Stuck and other owners of property along Glen Cove Road west of appellant's parcel petitioned the county to accept Glen Cove Road into the county road system. The county began paving the road shortly thereafter. Appellant testified that he was out of town when the county began to lay asphalt, but upon learning of the construction he directed his

wife to prevent the county from paving beyond the beginning of his western property line. The county complied and paved only that portion of Glen Cove Road which extends from Glendale County Road in the west to the property line appellant shares with Stuck. The county has maintained the road since 1960. During the winters it has cleared the road of snow. Since it maintains only the western portion of the road, its snow removal efforts frequently have resulted in blocking off the unpaved portion of the road from the paved portion. As one may expect, that has led to a considerable degree of friction between appellant and the county. Appellant has sought to have the county improve and maintain the rest of Glen Cove Road, but the county has declined to do so. Appellant filed a complai nt with the Circuit Court for Garrett County seeking to enjoin the county commissioners from trespassing on Glen Cove Road.[1]

[1]Appellant also sought compensatory damages of $90,000.

We gather from his testimony below that appellant claims to own the roadbed upon which Glen Cove Road lies. Unfortunately for him, appellant acted as his own counsel before the circuit court and, being unfamiliar with court procedure, failed to adduce any evidence to support his claim of ownership beyond his own testimony, which consisted primarily of reading his complaint, without objection. The county presented several witnesses who own property along the paved portion of Glen Cove Road. Each of those witnesses testified that he had petitioned the county in 1960 to accept Glen Cove Road into the county road system and that shortly thereafter the county paved the road from Glendale County Road to appellant's property line. The petition itself was not produced, but

there was evidence to the effect that the county accepted the dedication. The court held that the road was a part of the county system, thus the county was not trespassing when it cleared and maintained the road. We are bound under Rule 1086 to uphold the factual findings of the court below unless they are clearly erroneous. Based on the evidence presented, scant as it was, we cannot say that the court was clearly erroneous in holding that the paved portion of Glen Cove Road was dedicated and accepted into the county road system in 1960. The court went further, however, and found that the county had acquired through prescription the right to utilize the entire length of Glen Cove Road as well. We need not determine whether that finding was supported by adequate evidence because it was unnecessary to the resolution of the case below and, therefore, is

not before us. It is sufficient to say th-
at the court did not err in denying the
injunctive relief sought by appellant
because the county has the right to use
and maintain the section of Glen Cove Road
that appellant sought to enjoin it from
using. JUDGMENT AFFIRMED

COSTS TO BE PAID BY APPELLANT.

APPENDIX C

THEODORE RAYNOVICH v. ERNEST GREGG, JR. ET AL.

In the Court of Appeals of Maryland

Petition Docket No128

September Term 1987

(No. 1231, September Term 1986

Court of Special Appeals)

ORDER

Upon consideration of the petition for writ of certiorari to the Court of Special Appeals and the answer filed thereto, in the above entitled case, it is ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert C. Murphy

Date: July 1, 1987 Chief Judge

APPENDIX D

Filed and recorded September 9th, 1953. at 2:30 o'clock P.M. THIS DEED, Made this 8th day of September, 1953, by and between Walter W. Dawson and Lulu B. Dawson, his wife, of Garrett County, Maryland. parties of the first part and Theodore Raynovich and Anna Raynovich, his wife, of Allegheny County, Pennsylvania, parties of the second part. WITNESSETH, that for and in consideration of the sum of Ten Dollars ($10.-00) and other good and valuable consideration, well and trully paid by the said parties of the second part to the said parties of the first part, the receipt whereof is hereby acknowledged, the said parties of the first part have granted, bargained and sold, and by these presents do hereby grant, bargain, sell and convey unto the said parties of the second part, as tenants by the entireties, their heirs and

assigns, all that certain piece or parcel of land situate, lying and being in Election District No. 1. in Garrett County, Maryland, lying on the North side of Deep Creek Lake, along the South side of the Glendale County Road (now Garrett Route 22) ; adjoining the properties of Pennsylvania Electric Company, William E. Kight, Lelia E. Dawson. et al, J. Reed Wehrle, Arthur E. Naylor and Regina C. Hinds, and more particularly described by metes and bounds, courses and distances, as follows, to-wt: Beginning at a concrete monument marked "N-707½", said monument being the fourth corner of the 222.82 acre tract that is described as Part No. 1 of Tract No. 47 in the deed from Eastern Land Corporation to Youghiogheny Hydro-Electric Corporation, dated October 1. 1925 and recorded in Liber 91, folio 448, one of the Land Records of Garrett County, Maryland, and running

thence from said monument, with part of the third line reversed of said 222.82 acre tract, with the line of Pennsylvania Electric Company, South 89° 00' West, 112.5 feet to a stake; thence with the second and third lines of the 22,597 square foot parcel of land of Lelia E. Dawson, et al, North 3° 30' East, 174.5 feet to a stake in the South margin of an eighteen foot roadway; thence with the South margin of said roadway with four courses, North 75° 14' West, 126.5 feet to a stake, it being the fourth corner of the property of Lelia E. Dawson, et al thence with the North lines of William E. Kight's 1.0 acre tract, J. Reed Wehrle's 2.48 acre tract, Arthur E. Naylor's 1.0 acre tract, Arthur E. Naylor's 0.58 of an acre tract, and Regina C.Hinds' 0.75 of an acre tract, South 89° 00' West, 559.2 feet to a stake, it being the fourth corner of J. Reed Wehrle's 2.48

acre tract; thence South 82° 30' West, 389 .0 feet to a stake, it being the third corner of Arthur E. Naylor's 1.0 acre tract; thence North 86° 01' West, 117.37 feet to a stake, it being the second corner of Arthur E. Naylor's 0.58 of an acre tract and the third corner of Regina C. Hinds' 1.02 acre tract; thence crossing the 18-foot roadway and running with the last line reversed of Regina C. Hinds' 0.75 of an acre tract, North 7° 30' West, 182.65 feet to a stake in the South margin of the Glendale County Road; thence with the Glendale County Road with four courses, North 66° 15' East, 900.0 feet; North 61° 00' East, 297. 0 feet; North 53° 00' East, 198.0 feet to a stake; theece leaving the Glendale County Road and running with the property of William E. Kight, along a wire fence, South 32° 30' East, 952.0 feet to a large chestnut stake in the fourth line of the

222.82 acre tract hereinbefore referred to; thence with part of said fourth line reversed, with the line of Pennsylvania Electric Company, South, 72° 30' West 590. 0 feet to the beginning, containing (20) acres, more or less, and being part of the same which was conveyed to Walter W. Dawson by Ruth Beckman, by deed dated 28 April 1943, and recorded in Liber A.G.R. No. 130, folio 229. one of the Land Records of Garrett County, Maryland. This deed is subject to the right of property owners abutting on the private roadway leading from the Glendale County Road to the easterly margin of the land owned by Lelia E. Dawson, et al., to use the same as a means of access to and from their respective properties, and it is understood and agreed that said private roadway shall remain open for the use of all said abutting property owners. (UNDERLINES ADDED)

Together with the buildings and improvements thereon and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertauning. To have and to hold the above described property with all and singular the appurtences thereto unto the said Theodore Raynovich and Anna Raynovich, his wife, as tenants by the entireties, their heirs and assigns, forever in fee simple.

And the said parties of the first part covenant that they will warrant specially the property hereby granted and conveyed and that they will execute such other and further assurances of said land as may be requisite. Witness our hands and seals the day and year aforesaid.

Walter W. Dawson (SEAL)

Lulu B. Dawson (SEAL)

Witness:
Coral E.McRobie

State of Maryland, Garrett County, to-wit:
On this 8th day of September, 1953, before me, Coral E. McRobie, the undersigned officer, personally appeared Walter W. Dason and Lulu B. Dawson, his wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same for the purposes therein contained.
In witness whereof I hereunto set my hand and official seal. Coral E. McRobie

Notary Public

ALL TAXES PAID TO DATE

Sep9-1953

COUNTY TREASURER

Per_____

APPENDIX E

Mr. Stovers letter of Feb. 22, 1984.

I have examined the records in the office of the Clerk of the Circuit Court for Garrett County, Maryland, and find the John Luke Road extending from the Glendale County Road to the property of Merle M. Gindlesberger is a private road as set forth in your letter of February 2, 1984. For that reason, the Garrett County Roads Department can not maintain or provide services for the private road. When Mr. Ted Raynovich and the property owners adjoining the private road bring it to Garrett County Road Department standards and execute a good and sufficient deed for the road the board will then consider accepting the same.

Very truly yours,

W. Dwight Stover

APPENDIX F

Stover's letter of July 12, 1984

Your letter dated July 11, 1984 addressed to the County Commissioners of Garrett County has been forwarded to this office. It is my opinion you do not own the street or road known as the "John Luke Road" for the following reasons:

1. Section 2-114 of the Real Property Article of the Annotated Code of Maryland provides that a deed conveying land binding on any street or highway passes to the Grantee (purchasers of the lots) all the right, title and interest of the Grantor (Theodore Raynovich) to the street or highway.

2. On February 22, 1984 the John Luke Road, erroneously referred to as the Guthrie

continued on 22 a

Luke Road, was taken into the county road system. The Garrett County Roads Department has been collecting revenue on the road from the State of Maryland. It is my opinion the Board of County Commissioners acquired the legal right to use the road by reason of perscription for a period of more than twenty years.

Very truly yours,

W. Dwight Stover

WDS/lef

cc: Robert Fousek

Kenneth Metheny

APPENDIX G

Minutes of Regular Meeting of Garrett County Roads Board December 14, 1960

The Board met in the Garrett County Roads Office on Dec. 14, 1960.

On a motion by Mr. Garletts seconded by Mr. by Mr. Glotfelty an unanimously approved the following accounts receivable were authorized to be credited from the accounts receivable ledger for the reasons specified.

B & O Railroad Co.	30.69	Material received to replace
Aubrey Brenneman	323.96	Charged in error
Everett Broadwater	24.00	Decreased
Harry Deal	51.48	Legal complications
Sherman Friend	10.00	Charged in error
Schell Mining Co.	89.18	Bankrupt
Carl E. Savage	81.18	Material returned
Curtis Savage	6.00	to replace fence damage
Alphonous Weimer	61.38	Bad Debt
German Luthern Church-Accident	650.05	Charged in error
John Wilson	36.00	Overcharged

It was noted that the account of the Samuel Thomas Service Station had been questioned and the Board authorized the Ass't Supervisor to collect any part of this bill possible, and to write off the balance.

It was further noted that an overcharge had been made on the account of John Wilson and the Board authorized that a credit

to his account of $45.00 be made.

Mr. Glotfelty moved that all accounts receivable be made payable 90days after date of sale and that all bills be made payable within the calander year in which the debt is incurred. He further moved that any account 90 days old or older be turned over to the trial magistrate for collection, after final notification to the person involved. Mr. Schell seconded the motion and Mr. Garletts approved.

Mr. Schell made a motion that all persons asking for county services on any project not on the county road system, should be informed that any estimates made are only preliminary and that actual costs will be charged to determine the final amount of the bill. He further moved that 25% of the total bill be added to all such accounts to cover the general operating expenses involved.. Mr. Glotfelty seconded the motion and Mr. Garletts concurred. Mr. Schell moved that, effective Jan. 1, 1961, all roads that are requested to be taken into the County system be constructed, by the

persons interested, to the type desired by the idividuals concerned, before these roads may be taken into the system. After the county accepts these roads, then the county shall maintain them as the same type of road as they are originally given to the county. Mr. Glotfelty seconded the motion and Mr. Garletts concurred.

A motion by Mr. Schell was offered, that the road leading off of the Glendale Road, known as the Gutherie Luke Road be taken into the county system. Mr. Glotfelty seconded the motion and Mr. Garletts concurred.

A motion was made by Mr. Schell that the road leading off of the Underwood road, known as Kildow Hill, be taken into the county system. Mr. Glotfelty seconded the motion and Mr. Garletts concurred.

The rest of the day was spent discussing the budget of the Departmentfor thecoming year

Voucher #5114 VOID
Voucher #5114-5119 were approved and signed on December 6, 1960
Voucher #5120-5125 were approved and signed on December 13, 1960
Voucher #5126-5130 were approved and signed on December 20, 1960
Voucher #5131-5133 were approved and signed on December 30, 1960

Voucher #5134-5147 were approved and signed on January 5, 1961.
Voucher #5151 VOID
Voucher 5152-5195 were approved and signed on January 6, 1961.

Carl A Schell, President

Fred B. Glotfelty, Member

Elra F. Garletts, Member

Paul W. DeWitt, Secretary

Annotated Code of Maryland

Art. 25 Section 135. Opening, altering or closing--Petition to county commissioners-Exception as to Queen Anne's County.

Section 136. Same-Same- Notice and hearing

Whenever any citizen of any county intends to petition the county commissioners of opening, altering or closing any road, he shall give thirty days' notice thereof, by publication, three separate insertions at weekly intervals, in one or more of the newspapers published in the county, and if no newspaper be published in the county he shall give public notice of such intention by setting up a notice at the courthouse, and at three public places in the election district in which it is proposed to open, close or alter the road, for at least thirty days.

(b) Action by county commissioners on own initiative.-In addition to, but not in substitution of, their present power and authority to open, alter or close county

roads, the county commissioners may on their own initiative, open, alter or close any county roads provided they shall give the notice provided for in this section and grant a hearing for the consideration of objections and/or counter petitions.

Section 137. Same-Counter petitions. Counter petitions may be presented to the county commissioners, and when they are, the county commissioners shall take into consideration the reasons contained in the counter petition, and such other testimony as may come before them, and determine the case as in their opinion shall seem right and proper.

Section 138. Same- Contract for the right-Of-way; plat;

Section 139. Same-Condemnation of land in Washington, Garrett and Allegany counties.

Section 140. Same-Oath of examiners.

APPENDIX I

Section 12-207. LAND ACQUISITION POLICIES.

(e) PAYMENT AND DEPOSIT BEFORE SURRENDER OF POSSESSION.-No owner may be required to surrender possession of land before the public agency concerned pays the agreed purchase price, or deposits with the court in accordance with applicable law, for the benefit of the owner, an amount not less than the public agency's approved appraisal of the fair market value of the land, or the amount of the award of compensation in the condemnation proceeding for the land.

(i) RESPONSIBILITY FOR INSTITUTION OF A LEGAL PROCEEDING- If any interest in land is to be acquired by exercise of the power of eminent domain, the public agency concerned shall institute a formal condemnation proceeding. No public agency may make it necessary for an owner to institute legal proceeding to prove the fact of the taking of his land.

APPENDIX J

COUNTY SIGN "NO OUTLET"

APPENDIX K

AFFIDAVIT

TO WHOM IT MAY CONCERN:

LET IT BE KNOWN THAT I, MERLE M. GINGLESBERGER AS OWNER OF THIS PROPERTY, HAVE NEVER KNOWINGLY ALLOWED ANYONE TO KNOWINGLY TRESPASS OVER MY PROPERTY AND TO THE BEST OF MY KNOWLEDGE NOBODY HAS EVER TRESPASSED OVER MY PROPERTY, NEITHER BY WAGON, NOR BY AUTO, TO GET TO THE BLUE BARN NOR TO RETURN FROM THE BLUE BARN.

SIGNED

MERLE M. GINDLESBERGER

November 28, 1986

Date

NOTARY
SEAL

Carolyn S. Beeman

July 1, 1990

APPENDIX L

Merle Gindlesberger's deed; Liber 243 page 586 Filed and recorded October 5th, 1962 THIS DEED, Made this 5th day of October, 1962, by and between Stephen R. Pagenhardt, Trustee as hereinafter set forth party of the first part, and Merle M. Gindlesberger and Josephine T. Gindlesberger, his wife, of Allegheny County, Pennsylvania, parties of the second part.

"The party of the first part further grants to the parties of the second part, their heirs and assigns the right and privilege to use the 10 foot strip of land to the present roadway leading from County Road (Route #22) and the right to use the present roadway leading to said Route 22."

APPENDIX M

Mr. Marymowski's deed, Liber 231 page 426 Filed and recorded December 6th, 1960, at 10:30 o'clock A.M. THIS DEED, Made this 5th day of December, 1960, by and between Lewis R. Jones and Walter W. Dawson and Lulu B. Dawson his wife, of Garrett County, Maryland, parties of the first part, and Edmund Marynowski and Stella Marynowski, his wife, of Allegheny County, Pennsylvania parties of the second part.

"RESERVING, unto Theodore Raynovich and Anna Raynovich, his wife, their heirs and assigns, a right of way over the Northwest corner of the above described property, the said right-of-way measuring 15 feet along the third line of said lot and 10 feet along the second line of said lot."

APPENDIX N

Deed of Alva C. Lewis, Filed and recorded February 10th, 1960, at 10 o'clock A.M.

THIS DEED, Made this 4th day of February, 1960, by and between Lewis R. Jones and Stephen R. Pagenhardt, trustees as herein set forth;Theodore Raynovich and Anna Raynovich, his wife, and Walter W. Dawson and Lulu B. Dawson, his wife, of Garrett County, Maryland, parties of the first part, and Alva C. Lewis and Pearl L. Lewis, his wife, of Allegany County, Maryland, parties of the second part.

"The said Theodore Raynovich and Anna Raynovich, his wife, also grant and convey unto the parties of the second part, their heirs and assigns, the right and privileges to use a ten-foot strip of land running parallel with the northern line of the aforesaid Delbert R. Gnegy lot to the present roadway leading from the County Road (Route 22) and the right to use the present roadway leading to said Route 22."

APPENDIX O

Sherbandy deed Liber 227 page 23 Filed and recorded January 7th, 1960, at 3 o'clock P. M. THIS DEED Made this 2nd day of May 1959 by and between William A. Sherbandy and Emma A. Sherbandy, his wife, parties of the first part, and the Board of County Commissioners of Garrett County, Maryland, party of the second part, WITNESSETH: That for and in consideration of the Board of County Commissioners of Garrett County, Maryland, improving the Gravel Run road from Halsey's Route 219 to Sildon Harvey, the said parties of the first part do hereby, grant and convey unto said party of the second part a right of way or strip of land 30 feet in width measured 15 feet on either side of and perpendicular to the center line of the Gravel Run road, or so much of the parties of the first part's land as may lie within the 30 foot strip measured as aforesaid.

APPENDIX S

Title 42 U.S.C. Section 1985.

If two or more persons in any state or territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President, or Vice President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of The United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

APPENDIX T

U.S.C. 42 Section 1983:

Section 1983 grants a remedy for violation of Constitutional Rights by "STATE ACTION" and provides in pertinent part; Every person who, under color of any statute, ordinance, regulation, customs, or usage of any State or Territory, or The District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by The Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

APPENDIX R

Mr. WILLIAM E. KIGHT'S Letter of April 29, 1987, Dear Mr. Raynovich:

This is in response to your inquiry regarding a public roadway on land owned by me on Beckman's Peninsula. At no time, during my ownership of my property, was there a public roadway leading from the Blue Barn to your property line. There was a lane leading in that direction but it was not for general use by the public.

Very truly yours,

William E. Kight
23343 Blue Water Circle
B-11
Boca Raton, Fl.. 33433

APPENDIX Q

Beckman deed: Liber 104 page 502 At the request of Lilly M. Beckman this deed was recorded May 17th 1932 at 8.30 o'clock A.M. THIS DEED, made this Twelfth day of May, in the year 1932, by Stuart F. Hamill, of Garrett County, in the State of Maryland, trustee as hereinafter set forth. Whereas, by decree of the Circuit Court for Garrett County, Maryland, dated the 5th day of December, 1928, and passed in a cause in said Court depending, wherein Beulah B. Foy and others were complainants, and Harry R. Beckman and others were defendants, the above named Stuart F. Hamill, was duly appointed trustee with authority to sell the real estate in the proceedings in the said cause mentioned. "thence to and with a post and wire fence, North 32-½ degrees West 952 feet to the aforesaid Glendale Road,"

APPENDIX T

December 20, 1960 The Board met in regular session, all members present. Mr. Ted Stockslager requested that the Landon Dam Road be opened to the top of the hill instead of just to Claude Harvey. Mr. Stockslager stated that in the event of fire in the Park or a breakdown during the winter storms it would be almost impossible to get to the reservoir. Mr. Hobert Friend, Mr. Claude Bishoff and Mr. Clark Schlossnagle requested the county open the roads leading to their farms. It was explained by the Board that these were not county roads and if they were opened by the county that a charge would have to be made. Mr. Friend, Mr. Bishoff and Mr. Schossnagle agreed to pay to have the roads opened.

APPENDIX U

Section 7954. Sufficiency of Complaint

The general rules for determining the sufficiency of a complaint were well summarized in Leeward Petroleum, LTD. v. Mene Grande Oil Co,: 38

"All well pleaded allegations of the complaint must be taken as true....The complaint must be liberally constued, with the benefit of all proper inferences being given to the plaintiff.
... Nor must every essential fact be set down in the pleadings: it is sufficient if a fair reading of the complaint provides sufficient notice of the claimand its scope ....Only if it appears that the plaintiff is entitled to no relief under any state of facts which could be proven under the complaint should the motion to dismiss be granted."

The question is not how the plaintiff has characterized the action or what remedy he or she may have demanded, but rather whether plaintiff's allegations liberally construed show that he is entitled to some relief. 39 The court considers inferences which may reasonably be drawn from the express words of the complaint, but it will not strain to find any which are not apperent on the face of the complaint. 40

A pro se complaint, especially one drafted by a prisoner, is held to "less stringent standards than formal pleadings drafted by lawyers." 41

APPENDIX V

BUREAU OF MINES v. GEORGE'S CREEK 272 Md. 143, Page 101 of Court Transcript (1973)

A. My name is Fred A. Thayer, forty, I live in Oakland, Maryland, I am an attorney at law, presently the State's Attorney for Garrett County, and I'm involved, in addition to my practice of law, in the real estate business.

A. Yes, I'm a member of the Board of Directors of the First National Bank of Oakland.

A. Yes, as a member of the Board of Directors, we sit and review on most of the loans made by the bank, and from time to time, each of the directors assumes duties on the appraisal committee. I have served on the appraisal committee of the bank on numerous occasions.

A. Yes, I'm one of three on the Board of Property Review and sit as the attorney member. Incidentally, Mr. Walsh, in connection with the real estate business, I am a licensed broker, and have been since 1963.

APPENDIX W

JUDGE THAYER'S FINANCIAL STATEMENT 1987

SCHEDULE A Continued 3rd Page 8

A--Sky Valley Development, Deep Creek Lake; recreational subdivision; mortgage to The Garrett National Bank in Oakland, acquired 1965 from Robert Harvey originally 300 lots; sold 11 lots during calendar year 1985, at $157,500. Mortgage, Garrett National Bank, 12/31/81, $45,895. Decreased $34,840. Loan and mortgage to First United Nat. Bank reduced $33,333.32.

B--Owns surface of 1150 on Backbone Mountain, Garrett County, Maryland, acquire 1973 from Lewis R. Jones, purchase price, $325,000; mortgage to L.R.Jones & First United National Bank & Trust; mortgage to Jones reduced $20,000.

APPENDIX X

Letter of county commissioner Elwood L. Groves, II, Chairman, February 25, 1985. Dear Mr. Raynovich: As you are probably aware the Roads Department experienced a number of management changes shortly after your last visit to the County Commissioners regarding Glen Cove Road; therefore, please accept my apology for the delay in getting back to you. I had requested Mr. Shockey, Roads Administrator, to look into the status of the road. Mr. Shockey has informed me that the county snowplow driver has now been instructed to plow only the County maintained portion of that road. They are not making the full loop that had allegedly been plowed in the past near the Stuck residence. they turn around in the nearest appropriate place and plow back up to Glendale Road. Hopefully this will clarify for you the County's intentions regarding our operation on Glen Cove Road.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of August, 1987, I mailed three true and exact copies of the foregoing petition to The Supreme Court of The United States, by U. S. Mail, first class, postage, prepaid, to Mr. W. Dwight Stover, Esquire, at 3 South Second Street, Oakland, Maryland 21550.

Theodore Raynovich

Patricia E. Kessler
Notary Public

My Commission Expires: July 1, 1990

FILED
SEP 9 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-278

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1987

THEODORE RAYNOVICH,

Petitioner,

v.

ERNEST GREGG, JR.,
JOHN G. BRASKEY and
ELWOOD L. GROVES II,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS OF MARYLAND

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

H. RUSSELL SMOUSE
MELNICOVE, KAUFMAN,
WEINER, SMOUSE &
GARBIS, P.A.
600 Charles Center South
36 South Charles Street
Baltimore, MD 21201-3060
(301) 332-8581

W. DWIGHT STOVER
STOVER & SHERBIN
3 South Second Street
Oakland, MD 21550
(301) 334-9496
Attorneys for Respondents

QUESTIONS PRESENTED FOR REVIEW

I. Whether the Glen Cove Road was created by prescription, that is, use of the land by the public for highway purposes for the prescriptive period.

II. Whether the Court of Special Appeals of Maryland correctly entered and affirmed the judgment in favor of Commissioner Ernest Gregg, Jr., Commissioner John G. Braskey and Commissioner Elwood L. Groves II, constituting the County Commissioners of Garrett County, in hold Glen Cove Road to be a public thoroughfare and accepted in the county road system in 1960.

III. Whether the court of Appeals of Maryland erred in denying the

Petition of Writ for Certiorari filed by the Petitioner.

STATEMENT OF PARTIES TO THESE PROCEEDINGS

The Petitioner, Theodore Raynovich, at all relevant times, was the plaintiff and appellant below.

Commissioner Ernest Gregg, Jr., Commissioner John G. Braskey and Commissioner Elwood L. Groves II, constituting the Board of County Commissioners of Garrett County, Maryland, were the defendants and appellee in the proceeding below.

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The Bench Opinion of Judge Fred A. Thayer of the Circuit Court for Garrett County, Maryland has been transcribed and appears in the Appendix (App. 11a). The unanimous Per Curium opinion of Judges Wilmer, Bloom and Robert M. Bell appears in Appendix (App 3a). The Order of Chief Judge Robert C. Murphy of the Court of Appeals of Maryland appears in the Appendix (App. 1a).

No. 87-278

IN THE
SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1987

THEODORE RAYNOVICH,

Petitioner,

v.

ERNEST GREGG, JR.,
JOHN G. BRASKEY and
ELWOOD L. GROVES II,

Respondents.

ON WRIT OF CERTIORARI
TO THE COURT OF
APPEALS OF MARYLAND

STATEMENT OF THE CASE

Theodore Raynovich filed a Petition for Writ of Mandamus against Commissioner Gregg, Commissioner Braskey

and Commissioner Groves alleging the County Commissioners of Garrett County were trespassing over his property. The County Commissioners filed a motion to dismiss, a motion for a more definite statement and a motion to strike. In response to these motions, Theodore Raynovich filed a new petition for writ of mandamus and upon hearing of the various motions, the trial court granted the motion to dismiss with leave to file an amended complaint.

The amended complaint titled "Request for Mandatory Injunction" contained a count for specific performance, injunctive relief, other relief and a count for compensatory and punitive damages. The County Commissioners filed an answer to the amended complaint denying liability and

asserting four affirmative defenses.

Theodore Raynovich withdrew his demand for punitive damages. The three remaining affirmative defenses were denied by the Court. The case proceeded to trial and testimony was taken.

The facts adduced at the trial showed Theodore Raynovich purchased a tract of land on the North side of Deep Creek Lake in Garrett County, Maryland, in 1953. This parcel of land adjoined Garrett County Route No. 22, known as the Glendale Road. The Glen Cove Road, formerly the John Luke Road, proceeds in an easterly direction from the county road, across private property owned by persons not a party to this case, then onto the property claimed by Mr. Raynovich and then to the

Beckman County Road. In response to a petition by most of the property owners living along the road, Glen Cove Road was accepted by the county on December 14, 1960, as a part of its road system.

Petitioner sold lots on both sides of the Glen Cove Road to Arthur E. Naylor and his family. He sold other lots on the Glen Cove Road to various individuals. The road is used by the various lot owners along the Glen Cove Road as access to Glendale County Road.

George F. Stuck purchased land along the Glen Cove County Road on June 5, 1954, and later purchased a strip of land from Mr. Raynovich on June 11, 1954. Mr. Stuck and others filed a petition with the County Commissioners requesting the road be taken into the

county road system. In the spring of 1961, the County rocked, tarred and chipped the road. Since that time, the County has maintained and plowed snow on the road. The Glen Cove Road was once an existing road which began on the Glendale Road, proceeded through a number of properties, and terminated at the Beckman County Road.

In May 1983 Mr. Raynovich stopped in the office of the County Commissioners requesting the name of the road be changed from John Luke Road to Glen Cove Road. In response to Mr. Raynovich's request, the name was changed. Raynovich admitted the county has maintained the road since the early 1960s.

Petitioner filed all the pleadings in the trial court and

represented himself during the trial of the case. The trial court twice advised him that the allegations contained in his amended bill did not constitute evidence and it was necessary for him to present witnesses for the court to consider as evidence. The Court advised Petitioner the documents in their present state were not sufficient and not corroborative of his allegations. The Court informed Mr. Raynovich he had the right to testify, and he then read the amended complaint into evidence.

At the conclusion of the case, the trial court held the Glen Cove Road to be a public thoroughfare, as it was taken into the county system in 1960 and had been maintained as a county road for a period of twenty-six years. The trial court further held Mr. Raynovich

has for a period of in excess of twenty years accepted the county maintenance and use and benefits from the county and it is now too late to complain. The trial court denied appellant's motion for a new trial.

Raynovich thereafter filed a timely notice of appeal to the Court of Special Appeals of Maryland. On March 26, 1987, in an unanimous Per Curium opinion Judges Wilmer, Bloom and Robert M. Bell affirmed the decision of the Circuit Court for Garrett County, Maryland in favor of the Respondents.

Raynovich thereafter filed a Petition for Writ of Certiorari in the Court of Appeals of Maryland. This petition was denied by the Court of Appeals of Maryland on July 1, 1987, as there had been no showing that review by

certiorari is desirable and in the public interest.

ARGUMENT

The Petitioner admitted the County Commissioners of Garrett County has maintained the Glen Cove Road since 1960. The County has tarred, chipped, maintained and plowed snow on the road for a period of at least twenty-six years.

The County was petitioned by most of the property owners along the Glen Cove Road to accept the road from the Glendale County Road to the east boundary of the George Stuck property into the county road system. The property of the Petitioner east of the Stuck property was not taken into the county system. However, the road continues from the eastern boundary of the Stuck property to the Beckman County

Road. The County, as a member of the public, has the right to use the road from the Stuck property to the Beckman County Road, but not to maintain it. As a member of the general public, the County has the right to use the road east of the Stuck property. The road between the western terminus of the Glen Cove Road (Glendale County Road) to the eastern Stuck boundary, is a public thoroughfare.

The Petitioner has for a period in excess of twenty years, accepted the maintenance and benefits from the county of the acceptance of the road into its system and it is too late to complain on this section of the road.

The law is well established the right to use a road may be acquired by prescription for more than twenty

years. In this case the Glen Cove Road has become public by prescription. Members of the general public have used it without let or hinderance for a period in excess of twenty-six years.

The treatise Outlines of Real Property by Tiffany, Section 317, P. 378, states: "A highway may be created . . . by prescription, that is, user of the land by the public for highway purposes for the prescriptive period."

This statement is supported and found in Antieau's Local Government Law (1987) Volume 4 Section 37.06 wherein it states: "Counties can acquire title to roads, streets and highways by prescription."

In the Restatement of Property, Section 457, it is stated that

"an easement is created by such use of land for the period of prescription . . . . "

In the case of Clayton v. Jensen, 240 Md 337, 214 A2d 154 (1965) the Court of Appeals quoted with approval from the opinion in Condry v. Laurie, 184 Md. 317, 321, 41 A2d 66, 68 (1945) as follows:

> "In order to establish an easement by prescription, it is necessary to prove an adverse, exclusive and uninterrupted use of the way for twenty years. Adverse use means use without license or permission. Where a person has used a right of way for twenty years unexplained, it is fair to presume that the use has been under a claim of right, unless it appears to have been by permission."

Petitioner sold lots on both sides of Glen Cove Road to Arthur E. Naylor and his family. In fact, the Petitioner sold many lots on the Glen

Cove Road to various individuals as access to the Glendale County Road.

This case can be distinguished from the case of Layman v. Gnegy 26 Md App 114, 337 A2d 126 (1975). In that case, the Court of Special Appeals of Maryland stated "even if we were to assume that there was a public use of the roadway, it could not become public by prescription unless its termini were public places".

According to the testimony the Glen Clove Road was once an existing road which began at some point on the Glendale County Road, went through a number of properties, and terminated at another road, the Beckman County Road. For that reason, this case can be distinguished from Layman vs. Gnegy, supra.

Section 2-114(a) of the Real Property Article of the Annotated Code of Maryland provides:

> " . . . any deed, will, or other instrument that grants land binding on any street or highway, or that includes any street or highway as 1 or more of the lines thereof, shall be construed to pass to the devisee, donee, or grantee all the right, title, and interest of the devisor, donor, or grantor . . . in the street or highway for that portion on which it binds."

The owners of the lots have used the Glen Cove Road as access from their homes to the Glendale County Road. It is fundamentally unfair for the Petitioner to now attempt to deny his grantees and other property owners the benefit of County maintenance and County snow removal during the harsh winter months.

It is respectfully submitted the Court of Appeals of Maryland did not decide a federal question in a way in conflict with the decision of another state court of last resort or of a Federal Court of Appeals. It is also submitted the Court of Appeals of Maryland has not decided an important question of federal law which has not been, but should be, settled by this court, nor has the Court of Appeals of Maryland decided a federal question in a way in conflict with applicable decisions of this court.

The sole issue in this case is whether the County obtained title to the Glen Cove Road by prescription. The Petitioner admitted County maintenance for the prescriptive period and he should not at this late date claim

taking of property which he does not now own to the detriment of his grantees and other property owners.

CONCLUSION

For the aforegoing reasons, Respondents, Commissioner Ernest Gregg, Jr., Commissioner John G. Braskey and Commissioner Elwood L. Groves II, constituting the Board of County Commissioners of Garrett County, Maryland respectfully requests that this Honorable Court deny Petitioner's Request for Writ of Certiorari.

Respectfully submitted,

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APPENDIX

IN THE
COURT OF APPEALS
OF MARYLAND

Petition Docket No. 128
September Term, 1987

(No. 1231, September Term, 1986
Court of Special Appeals)

THEODORE RAYNOVICH,
Plaintiff-Appellant,

v.

ERNEST GREGG, JR. et al.
Defendants-Appellees

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals and the answer filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1231

September Term, 1986

THEODORE RAYNOVICH

v.

ERNEST GREGG, JR., ET AL.

Wilmer,
Bloom,
Bell, Robert M.,

JJ.

Per Curiam

Filed: March 26, 1987

Theodore Raynovich appeals the judgment of the Circuit Court for Garrett County denying his request that appellees, the Board of County Commissioners of Garrett County and Commissioners Ernest Gregg, Jr., John Braskey and Edward Groves, III, be enjoined from trespassing upon a certain road that Raynovich claims to own. The court determined that the road in question is part of the county road system and, therefore, denied the injunction. The court's determination not being clearly erroneous, we shall affirm.

At the outset we note that appellees have filed a motion to dismiss this appeal on the basis that the form and contents of appellant's brief fail to comply with the strictures of Rule

1031. We are sorely tempted to grant that motion because the brief is one of the worst ever filed with this Court. We recognize, however, that the brief is the product of a pro se appellant and, despite its inadequacies, we are able to discern from that brief the issue on appeal and enough facts to decide that issue. We choose, therefore, to exercise our discretion to deny appellee's motion. Rule 1035.

In 1953, appellant purchased a tract of land located on the north side of Deep Creek Lake and adjoining Garrett County Route No. 22, known as Glendale County Road. A road, formerly known as John Luke Road and now known as Glen Cove Road, traverses that tract, extending from Glendale County

road in the west to Beckman County Road in the east.

Between 1953 and 1954, appellant sold a number of lots along Glen Cove Road to various individuals, retaining a parcel of property to the east of a lot now owned by George F. Stuck. In 1960, Stuck and other owners of property along Glen Cove Road west of appellant's parcel petitioned the county to accept Glen Cove Road into the county road system. The county began paving the road shortly thereafter. Appellant testified that he was out of town when the county began to lay asphalt, but upon learning of the construction he directed his wife to prevent the county from paving beyond the beginning of his western property line. The county complied and paved only that portion of

Glen Cove Road which extends from Glendale County Road in the west to the property line appellant shares with Stuck.

The county has maintained the road since 1960. During the winters it has cleared the road of snow. Since it maintains only the western portion of the road, its snow removal efforts frequently have resulted in blocking off the unpaved portion of the road from the paved portion. As one may expect, that has led to a considerable degree of friction between appellant and the county. Appellant has sought to have the county improve and maintain the rest of Glen Cove Road, but the county has declined to do so.

Appellant filed a complaint with the Circuit Court for Garrett County seeking to enjoin the county commissioners from trespassing on Glen Cove Road.[1] We gather from his testimony below that appellant claims to own the roadbed upon which Glen Cove Road lies. Unfortunately for him, appellant acted as his own counsel before the circuit court and, being unfamiliar with court procedure, failed to adduce any evidence to support his claim of ownership beyond his own testimony, which consisted primarily of reading his complaint, without objection. The county presented several witnesses who own property along the paved portion of Glen Cove Road. Each of those witnesses testified that he had

[1]Appellant also sought compensatory damages of $90,000.

petitioned the county in 1960 to accept Glen Cove Road into the county road system and that shortly thereafter the county paved the road from Glendale County Road to appellant's property line. The petition itself was not produced, but there was evidence to the effect that the county accepted the dedication. The court held that the road was a part of the county system, thus the county was not trespassing when it cleared and maintained the road.

We are bound under rule 1086 to uphold the factual findings of the court below unless they are cleary erroneous. Based on the evidence presented, scant as it was, we cannot say that the court was clearly erroneous in holding that the paved portion of Glen Cove Road was dedicated and

accepted into the county road system in 1960. The court went further, however, and found that the county had acquired through prescription the right to utilize the entire length of Glen Cove Road as well. We need not determine whether that finding was supported by adequate evidence because it was unnecessary to the resolution of the case below and, therefore, is not before us. It is sufficient to say that the court did not err in denying the injunctive relief sought by appellant because the county has the right to use and maintain the section of Glen Cove Road that appellant sought to enjoin it from using.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANT.

IN THE
CIRCUIT COURT
FOR
GARRETT COUNTY, MARYLAND

Civil Action No.
472

THEODORE RAYNOVICH,

Plaintiff,

vs.

ERNEST GREGG, JR., ET AL.

Defendants.

Remarks from the Bench

THE COURT: Mr. Stover, you are correct that there is no evidence of any damage before me. To begin with, Mr. Raynovich, under the circumstances of this case and nearly every other civil case, legal expenses in preparing a claim are not recoverable. That is up to the parties to pay. That may be a

defect in our system, but that is the system. If there were a trespass, I could assign nominal damages, but for reasons which will become clear in a moment, I am not going to do that.

As I have said and I now find specifically that the Glen Cove Road is, indeed, a public thoroughfare, it qualifies as such. It is clear that the county was petitioned by property owners along the Glen Cove Road, with the exception of Mr. Raynovich and perhaps some others, to accept the road into the county system at least as far east as the boundary of the George Stuck property. The road was taken into the system in 1960, and whether or not the right-of-way agreements were recorded is a matter that is not before me. I assume perhaps that that was not done.

I have some knowledge that there are rights-of-way outstanding which the county acquired and did not record. Nonetheless, the road was taken into the county system and has been maintained as a county road, at least as far east as the Stuck property, for a period of 26 years. The property owners who live along that road, including Mr. Raynovich, benefit from the county maintenance whether they asked for it or not. It is likewise clear and I so find that the property of Mr. Raynovich east of the Stuck property was not the subject of a petition nor a right-of-way for a county road in the system, and as such, it is not county road though it is a public thoroughfare from the eastern boundary of the Stuck property to Beckman County Road. Mr. Stover tells

me that the county does not maintain a claim to that portion of the Glen Cove Road as a county road. The county, however, does have the right, as a member of the public, to use that road from the Stuck property onwards to the Beckman County Road, but not to maintain it. It must be a county road to be a subject of county maintenance. It does, however, have the right, as a member of the general public and as any other member of the general public would have, to use that road.

As to the property between the western terminus of the Glen Cove Road at the Glendale County Road and extending eastward to the eastern Stuck boundary, I find that that road is in the county system and qualifies as a county road. It was so petitioned and

it was so accepted. Mr. Raynovich was not included in that petition and I gather the county has no right-of-way; nonetheless, Mr. Raynovich has for a period of in excess of 20 years accepted the county maintenance and use and the benefits from the county for the county acceptance of that into the system, and it is now too late to complain on that section of the road. I will, if it is appropriate, entertain and restrain the county from any further maintenance on the Glen Cove Road eastward from the Stuck boundary.

Mrs. Selby, I'll ask you to transcribe these remarks and I'll sign them and enter them into the record as the court's findings.

Fred A. Thayer, Chief Judge

October 1, 1986

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 9th day of September, 1987, I mailed three copies of the Brief In Opposition To Petition For Writ of Certiorari to the Supreme Court of the United States by United States Mail, first class, postage prepaid, to Theodore Raynovich, R.F.D. 1, Box 227, Oakland, Maryland 21550, in accordance with Rule 28.3. and .5.(c).

W Dwight Stover

W. DWIGHT STOVER
STOVER & SHERBIN
3 South Second Street
Oakland, Maryland 21550
(301) 334-9496
Attorney for Respondents

Subscribed and sworn to before me this 9th day of September, 1987.

Sharon J. Wright

Sharon J. Wright
Notary Public

My Commission Expires: July 1, 1990

87-278

Supreme Court, U.S.
FILED
SEP 16 1987
JOSEPH F. SPANIOL, JR.
CLERK

In The
Supreme Court of the United States

October Term, 1987

THEODORE RAYNOVICH,

Petitioner,

v.

ERNEST GREGG, JR.,
JOHN G. BRASKEY, and
ELWOOD L. GROVES III.

Respondents

Board of County Commissioners

ON PETITION FOR WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF THE STATE OF MARYLAND

REPLY BRIEF OF PETITIONER

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QUESTIONS PRESENTED FOR REVIEW

I. Whether the Board of County Commissioners can, in conspiracy take private property without due process, in violation of the laws and statutes of Maryland, and the Constitutional Laws of Maryland, and the Fifth and Fourteenth Amendments to the Constitution of The United States of America.

II. Whether the lower Courts of Maryland can rubber stamp Constitutional violations merely because the wrong doers are rich and politically affluent to force public officials into conspiracy to deny private citizens of equal protection under the Law.

STATEMENT OF PARTIES TO THESE PROCEEDINGS

The Petitioner, Theodore Raynovich, at all relevant times, was the plaintiff and appellant below.

Commissioner Ernest Gregg, Jr., Commissioner John G. Braskey and Commissioner Elwood L. Groves III, constituting the Board of County Commissioners of Garrett County, Maryland, were the defendants and appellees in the proceeding below. All are on the front cover.

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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

THEODORE RAYNOVICH,
Petitioner,

v.

ERNEST GREGG, JR.,
JOHN G. BRASKEY, and
ELWOOD L. GROVES III,
Respondents.

Petition for a Writ of Certiorari
to the Court of Appeals of
The State of Maryland

REPLY BRIEF FOR PETITIONER

Review of the decision of the Maryland Court of Appeals is required because it disregards the explicit Supremacy of The Constitution of The United States, by

ignoring pleadings in regard to Constitutional violations. Reply to Respondents' opposition brief: On their cover: Its Groves III., Is No UNITED STATES COURT OF APPEALS OF MARYLAND, Page-i- I. Glen Cove Road could never be created by prescription, due to the facts, all parties that use this road have deeded access, General Public have no reason to use it, they never did use it and have no reason to use it, and the County has no reason to use it.

II. Elwood L. Groves III. (3rd) This private roadway is a cul de sac as verified by County Road Sign "NO OUTLET" This private road cannot be a public " THOROUGHFARE" by any Legal means what so ever, if we are to abide by the Constitution and Its Amendments.

Mr. Stover's letter of Feb. 22,1984, in petitioner's Brief Appendix E. at 20a.: "I have examined the records in the office of the Clerk of the Circuit Court for Garrett County, Maryland, and find the John Luke Road extending from the Glendale County Road to the property of Merle M. Gindlesberger is a private road as set forth in your letter of February 2, 1984. For that reason, the Garrett County Roads Department can not maintain or provide services for the private road. When Mr. Ted Raynovich and the property owners adjoining the private road bring it to Garrett County Road Department standards and execute a good and sufficient deed for the road the board will then consider accepting the same."

This letter tells the whole truth and story, and is made even stonger by petitioner's deed, in Brief Appendix D at 13a, Mr. Gindlesberger's Appendix L at32a, Marynowski's Appendix M at 33a.

Which describes the ten foot right-of-way petitioner had to bargain for so the lot could be sold to Mr. Alva C. Lewis in 1960 Copy of which is in petitioner's brief as Appendix N at 34a.

OPPOSITION BRIEF Page 2.: "upon hearing of the various motions, the trial court granted the motion to dismiss with leave to file an amended complaint." This is far fetched and malicious mistatement, hearing was brought about by the petitioner's Motion for Hearing on All Counts 3/3/86. At this hearing Judge Thayer told petitioner, that he would not act on the Petition For Writ of Mandamus, and at his direction petitioner was to file "REQUEST FOR MANDATORY INJUNCTION" and Mr. Stover would explain it all to petitioner. Which Mr. Stover did give petitioner a complete course in Law in respect to "MANDATORY INJUNCTION" in about 15 minutes, that this was the way this Court took care of these matters, and this way petiti-

tioner could be given something for all the trouble over the years, petitioner now knows that this was their set up to shear the sheep, for at that time, petitioner never heard of "MANDATORY INJUNCTION" and today still don't know much about it, but did as was told in the Judges Court, April 9-1986.

Page -3-"Theodore Raynovich withdrew his demand for punitive damages." Petitioner's teacher didn't explain this till it was filed, then Mr. Stover explained these facts and the punitive damage were withdrawn as petitioner still did not realize the patsy game they were playing, even told me it wasn't necessary to bother with a jury, and petitioner obeyed, and withdrew the jury request, feeling that the Courts have their ways and the scales will be balanced and fair, and all will be settled.

"The Glen Cove Road, formerly the John Luke Road," Since 1952 this road was known as

Glen Cove Road, only when Robert Glen Stuck a politically affluent person started to call this Road The John Luke Road, John Luke never owned this Road, had nothing to do with it, as Stuck had services hooked up he gave the people the name of John Luke Rd. When petitioner learned of this he went to the County Office and had the Road changed back to Glen Cove Road, Mr. R. G. Stuck still, in the phone directory uses his address listing as JOHNNY LUKE ROAD, the only one using that listing in the area. Page -4- "Beckman County Road." There was never in the history of the world, ever a road as described going to Beckman County Road. In modern times, Beckman deed Appendix Q at 39a in petitioner's brief, shows the wire fence 952' in 1932, the same wire fence line in petitioner's deed in 1953. And if there ever was a road as the respondents now claim, petitioner could have

sold lot to Mr. Lewis without getting the ten foot right-of-way from Mr. Marynowski.

"In response to a petition by most of the property owners living along the road,"

There never was a petition, this is False

This case is primarily a Constitutional Question, which petitioner has brought up in every pleading, at the "Trial" in the Appeals, and the Respondents have never answered these questions, they don't deny that there is a conspiracy. "Petitioner sold lots on both sides of Glen Cove Road to Arthur E. Naylor and his family." TRUTH: Petitioner sold property to Naylor on one side only. Property owners along the Glen Cove Road use the road as their Deeded Access rights. No prescription can be claimed, and there absolutely never was a petition of any kind whatsoever, for anyone to say that there was, is false.

For the sake of an argument,

were there a petition, it would be illegal and contrary to Annotated Code of Maryland Art. 25 Section 135 et seq. petitioner's brief at page 27a.

Page -5- The Glen Cove Road was never an existing road that terminated at the Beckman County Road, as is positively by appendix J at 30a, county sign "NO OUTLET", appendix K at 31a, Gindlesberger's affidavit, appendix L at 32a, Gindlesberger's deed appendix M at 33a, Marynowski's deed, appendix N at 34a, Lewis's deed, in petitioner's brief. This road was known as Glen Cove Road since 1952, petitioner had name returned to Glen Cove Road. "Raynovich admitted the county has maintained the road since the early 1960s." This is the problem how does a private citizen stop the Government from repeated tresspassing, over a road that must stay open for the deeded access, from the first day that the County entered

upon petitioner's property, petitioner has continuously protested this Illegal UnConstitutional conduct to Deaf Ears. There is no way that a private citizen can stop the large government trucks from going where ever they wish to go, this by the Respondents constituted "ACCEPTANCE"and "ADMITTANCE" By the Respondents version of acceptance, leaves the victimized private citizen to protest as they do in Beirut-- bombs & machine guns -- or else you accept our services whether you want them or not, this is not the way we are supposed to live, we were blessed with a Constitution, that makes us a little diferent, and a little better, and all Public Officials Swear to uphold, and Defend The Constitution, not to trample it and the private citizen who is in the way of their co-conspirators, as is the case that is now here before this Court of last resource for the petitioner.

ARGUMENT The Respondents' Argument is more repitition of the same distorted, out of context, mistatements, since they have no Legal stance for defense they keep repeating their false statements, and petitioner must clear them up, which should not be needed as their gobly-gook is a misuse and abuse, and very expensive on the taxpayer as the corrupt conspirators use tax monies to defend themselves in courts against the victimized private citizens. Whereas if they worked within the laws, these cases would not be. Page -9- "The County was petitioned by most of the property owners--" TRUTH: There never was any petition. "However the road continues from the eastern boundary of the Stuck property to the Beckman County Road." TRUTH: Never was, as proven above. Page-10- "The County, as a member of the public, has a right to use the road----" TRUTH: The public has no

right to use this private road, and the County has no right to use this road, this cul de sac road is for deeded access there is no reason for General Public to use this private road, for it cannot serve any usefull purpose to the General Public, and was never used as such. "THOROUGHFARE" it's ten feet wide and dead end, only conspirators could call this a thoroughfare. More repitition: " The Petitioner has for a period in excess of twenty years, accepted the maintenance and benefits from the county of the acceptance of the road into its system and it is too late to complain on this section of the road." TRUTH: Petitioner's continuous complaints seem to constitute "ACCEPTANCE" since there was no bombing or machine gunning, the many meetings of protests seem to be procedures of acceptance in the eyes of corrupt officials. " Prescription for more than twenty years-" TRUTH: There

is no prescription on deeded access road.

Page-11- Members of the general public have never used this road, it is of no use to the general public. " The treatise Outlines of Real Property by Tiffany, Section 317, P. 378, states: "A highway may be created ... by prescription, that is, user of the land by the public for highway purposes for the prescriptive period."" TRUTH: Prescription cannot apply to DEEDED ACCESS.

Page -12- "---unless it appears to have been by permission." DEEDED ACCESS is permission. More repeat this time word for word from page -4- " Petitioner sold lots on both sides of Glen Cove Road to Arthur E. Naylor and his family." TRUTH: one side.

Page-13-(top) "--to various individuals as access to the Glendale County Road."

TRUTH: It was DEEDED ACCESS to the Glendale County Road. (center of page) "--it could not become public by prescription unless its termini were public places." "

All documents, affidavits, deeds, county sign, and surveys show this as a cul de sac and never had public termini. There never was any reason for the general public to

use this road that goes to nowhere. Page -14-"Section 2-114(a) of the Real Property Article of the Annotated Code of Maryland provides:" QUOTE TAKEN OUT OF CONTEXT:

This is the part Respondents slyly left out: except that to the extent the testator donor, or grantor owns other land on the opposite side of the street or highway, the deed, will, or other instrument passes the right title, and interest of the testator, donor, or grantor, only to the center of that portion of the street or highway on which the two or more tracts coextensively bind. Petitioner owns property on <u>both</u> sides of Glen Cove Road.(Bottom of page): " The owners of the lots have used the Glen Cove Road as access from their homes to the Glendale County Road. It is fundamentally unfair for the Petitioner to now attempt to deny his grantees and other property owners the benefit of County maintenance and County snow removal during the harsh winter months." TRUTH: These owners have DEEDED ACCESS, these rights are not, nor can they be questioned, by anyone. As for snow removal during the harsh winter months, it is fundamentally unfair for the Respondents to remove snow from power brokers property,

and push this snow into the roadway blocking the road completely shut for other families, this being their benefits from the respondents Constitutional violations, in exchange for their taxes. Petitioner and Mr. Gindlesberger have met with County Commissioners, County Engineers on many occasions, in the hope that this conspiracy would stop and in its place a legal and just procedure that would be fair to all taxpayers, As Mr. Stover's letter of February 22, 1984 Appendix E at 20a Petitioner's brief, this letter is honest and states the legal procedure that should be followed, petitioner and other property owners agree 100% with that letter, if respondents complied with this letter, there would been no need of this expensive, long drawn-out litigation, where responents use the full force, power, and wealth of Government to try to beat down a citizen who believes that The Constitution

provides protection from the taking of property without due process of Law. Bottom p.-15- and top of p.-15- "--by prescription." No prescription on Deeded Access. "The Petitioner admitted County maintenance-" protests,complaints, and meetings seem to proof of admittance and acceptance, to the respondents. "-property which he does not now own to the detriment-" TRUTH: Petitioner does now still own the property of said road, and property on both sides of Glen Cove Road.--Another planned error, by Respondents. Abiding by the U. S. Constitution should not be a detriment to anybody. No General Public ever used Glen Cove Road. General Public had no reason to want to use this road -- no value to General Public, cul de sac private road is for the use of adjoining property owners only, their Deeds and petitioner's show use of private road by

adjoining property owners. Not for General Public, and the County Roads Department, being part of the General Public, was trespassing. There is no Law, or Statute, on any books anywhere, that grants the "Right of Prescription" on any Road that provides easement by permission, and Deeded Access is solid easement making Prescription impossible.

At the "Trial" of October 1, 1986 IN THE CIRCUIT COURT FOR GARRETT COUNTY, MARYLAND HONORABLE FRED A. THAYER, Chief Judge (and a licensed real estate broker). Mr. George F. Stuck, a surprise witness, stated under oath: " And when I bought my property there was a chain across the west end of the property that Walter and his brother had used to keep anybody from going over in the other property." This was then, and is now the end of the Glen Cove Road, from that point, which is Mr. Stuck's western boundary line, plaintiff built narrow

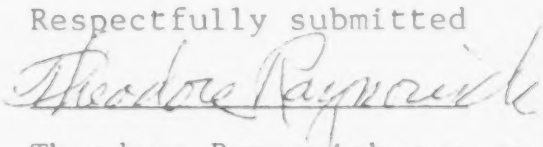
drive-ways for his personal needs and for people to whom petitioner sold lots to and with each lot sold, Deeded Access was part of each sale. There is no Legal reason for County Trucks to trespass over any part of Glen Cove Road or any drive-ways leading from it. OPPOSITION BRIEF, Appendix page-9a "The petition itself was not produced, but there was evidence to the effect that the county accepted the dedication." TRUTH: There never was a "petition" to produce, "accepted the dedication" Antieau's Local Government Law, Volume 4 Section 37.06 wherein it states: "Two things are necessary to constitute a valid common law dedication, namely, first, an intention on the part of the owner unequivocally to devote his land, or an easement in it, to a public use, followed by some act or acts clearly and unmistakably evidencing such intention; and second, an acceptance of the offer by the county."

Seemingly respondents dedicate without the owner knowing that a conspiracy dedicated his property.

CONCLUSION

For reasons stated herein and previously, petitioner prays that his petition for a writ of certiorari should be granted.

Respectfully submitted



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ___ day September, 1987, I mailed three true and exact copies of the foregoing Petitioner's Reply Brief, by U. S. Mail, first class, postage, prepaid, to Mr. W. Dwight Stover Esquire, at 3 South Second Street, Oakland, Maryland 21550.

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CAROLYN S. BEEMAN
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires July 1990